

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

ESTATE OF MELVIN LAWRENCE)
REED, SR., by Co-Personal Representatives)
Norma Reed and Michelle Reed and)
heirs, Norma Reed, Melvin Reed, Jr. and)
Michael Reed,)
Plaintiffs,)
vs.) No. 05-5066-CV-SW-FJG
UNITED STATES OF AMERICA,)
Defendant.)

ORDER

Pending before this Court is defendant's motion to dismiss (Doc. No. 3) for failure to file a health care provider affidavit, pursuant to Arkansas law. On October 28, 2005, plaintiffs filed a joint stipulation for extension of time for plaintiffs to file a medical affidavit (Doc. No. 6). Plaintiffs were granted an extension of time to November 28, 2005, in which to file their response to the pending motion to dismiss (Doc. No. 3). On November 28, 2005, plaintiffs filed their health care provider affidavit. As failure to file the health care provider affidavit was defendant's only ground for dismissal, and defendant agreed to the extension of time for plaintiffs to file the affidavit, the Court finds defendant's motion to dismiss (Doc. No. 3) should be **DENIED AS MOOT**.

/s/Fernando J. Gaitan, Jr.

Fernando J. Gaitan, Jr.
United States District Judge

Dated: December 20, 2005
Kansas City, Missouri